

MEMO ENDORSED

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 7/26/2018



July 25, 2018

Honorable Valerie E. Caproni
United States District Court
Southern District of New York
40 Foley Square, Courtroom 443
New York, New York 10007

Orrick, Herrington & Sutcliffe LLP
51 West 52nd Street
New York, NY 10019-6142
+1 202 339 8400
orrick.com

Richard J. Morvillo

E rmorvillo@orrick.com
D +1 202 339 8484
F +1 202 339 8500

Re: *United States v. Todd Howe*, 16-cr-00632 (VEC)

Dear Judge Caproni:

We write as counsel to Todd R. Howe in the above-referenced case to advise the Court of the result of our discussions with the Government concerning Mr. Howe's continued incarceration at the MCC. As you know, Mr. Howe's bail conditions were revoked on or about February 8, 2018. The Government and Mr. Howe have now agreed that the Government has no objection to Mr. Howe's release subject to the following bail conditions:

1. Mr. Howe and his spouse must execute a \$100,000 unsecured appearance bond. For the Court's convenience, I have attached as Exhibit A the original Appearance Bond and Order Setting Conditions for Release.
2. Mr. Howe must not violate any federal, state or local law while on release.
3. Mr. Howe must cooperate in the collection of a DNA sample if it is authorized by 42 U.S.C. Sect. 14135a.
4. Mr. Howe must advise the Court or the pretrial services office or supervising officer in writing before making any change in residence or telephone number.
5. Mr. Howe must appear in Court as required and, if convicted, must surrender as directed to serve a sentence that the Court may impose.
6. Mr. Howe must submit to supervision by and report to regular pre-trial supervision.
7. Mr. Howe must continue to actively seek employment.
8. Mr. Howe has surrendered his passport to PSA and he will not obtain a passport or other international travel document.
9. Upon the entry of an appropriate order from this Court, Mr. Howe will be released on his own personal recognizance following his August 7, 2018 pre-sentence interview by the assigned U.S. Probation Officer.



July 25, 2018
Page 2

10. Upon release, Mr. Howe will return to his residence in Idaho and will remain there in modified home detention pending his sentencing by this Court. During the hours between 10pm-5:30am for the duration of his modified home detention, Mr. Howe will not leave his residence except to obtain or to assist his spouse in obtaining needed medical attention. During the hours 5:30am-10pm for the duration of the period of his modified home detention, he will not leave the Sun Valley Idaho area except to the extent necessary (a) to seek prospective employment; (b) upon securing a job, to go to his place of employment to work; (c) to obtain medical, dental or other necessary healthcare; (d) to attend meetings requested by the Government or the Probation Officer assigned to his case; and (e) to meet with his counsel immediately before, and to attend, the hearing on sentencing before this Court. Mr. Howe will not be permitted to travel outside of Idaho for work or any other purpose (except for (e) above) without the prior permission of the Government.
11. Prior to his sentencing, Mr. Howe shall not have any oral or written communication with any person concerning any matter related to the above-referenced case or any matter related to any of the defendants in, or any matters directly or indirectly related to, *U.S. v Percoco et al.* or *U.S. v. Kaloyeros et al.* pending before this Court.
12. Prior to his sentencing, Mr. Howe will not use any cellphone or other electronic communication device for the purpose of making or receiving phone calls or sending or receiving emails, text messages or other forms of written communication, except (a) to communicate with his counsel or members of his immediate family; (b) to secure employment; (c) upon securing employment, to communicate with his employer or others to the extent necessary to discharge his employment responsibilities; and (d) to schedule doctor, dental and other healthcare appointments. Mr. Howe shall keep and maintain all telephone bills and other records he shall receive of such electronic communications.
13. Prior to his sentencing, Mr. Howe will not use any credit or charge card and shall not secure any loan, credit line or other form of borrowing from any person, credit card company, merchant, bank or other financial institution. Mr. Howe will allow his spouse to handle in a prompt and timely manner the payment of all of their household and living expenses and will not obtain or use a checking or other depository account at any bank or financial institution. To the extent that Mr. Howe secures employment before his sentencing, he shall deposit all wages and other forms of compensation he receives in a checking account in the name, and under the exclusive control, of his spouse, and those funds shall be used for the prompt and timely payment of reasonable household and living expenses, insurance, taxes, debts (including to the IRS), and medical and other healthcare expenses. During the period prior to his sentencing, Mr. Howe will not make any purchase exceeding \$2500 except to the extent necessary for medical or other healthcare needs.



July 25, 2018
Page 3

14. Prior to sentencing, Mr. Howe shall report to his local Probation Officer in Idaho at such times as directed by the Probation Officer and shall confirm that he has complied with the terms of the foregoing conditions as well as the bail conditions imposed on him previously.

We will be available to appear before Your Honor at any time other than July, 27, 2018-August 1, 2018 to answer any questions or to address any issues the Court may have with regard to the arrangement described above. We would also be happy to submit a proposed order for the Court's consideration.

Respectfully submitted

A handwritten signature in blue ink, appearing to read "R. Morvillo", written over a horizontal line.

Richard J. Morvillo

Enclosure

No later than **July 31, 2018**, the Government must submit a letter explaining why paragraphs 11 and 12 of this letter are appropriate conditions under the Bail Reform Act, as amended. The parties must also appear for a conference with this Court on **August 2, 2018 at 11:00 a.m.** in Courtroom 443 of the Thurgood Marshall U.S. Courthouse, 40 Foley Square, New York, NY.

Additionally, if possible, the parties should make arrangements to schedule Mr. Howe's presentence interview earlier than August 7.

SO ORDERED.

A handwritten signature in blue ink, appearing to read "Valerie Caproni", written in a cursive style.

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE
7/26/2018